

paragraph (a)(1) of this section, each applicant shall:

(i) Demonstrate that its system will, at a minimum, service the 48 contiguous states of the United States (full CONUS);

(ii) Certify that its satellite DARS system includes a receiver that will permit end users to access all licensed satellite DARS systems that are operational or under construction; and

(iii) Identify the compression rate it will use to transmit audio programming. If applicable, the applicant shall identify the compression rate it will use to transmit services that are ancillary to satellite DARS.

(b) Milestone Requirements. Each applicant for system authorization in the satellite digital audio radio service must demonstrate within 10 days after a required implementation milestone as specified in the system authorization, and on the basis of the documentation contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. This showing shall include all information described in §25.140 (c), (d) and (e). The satellite DARS milestones are as follows, based on the date of authorization:

(1) One year: Complete contracting for construction of first space station or begin space station construction;

(2) Two years: If applied for, complete contracting for construction of second space station or begin second space station construction;

(3) Four years: In orbit operation of at least one space station; and

(4) Six years: Full operation of the satellite system.

(c) Reporting requirements. All licensees of satellite digital audio radio service systems shall, on June 30 of each year, file a report with the International Bureau and the Commission's Laurel, Maryland field office containing the following information:

(1) Status of space station construction and anticipated launch date, in-

cluding any major problems or delay encountered;

(2) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages; and

(3) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

(d) The license term for each digital audio radio service satellite shall commence when the satellite is launched and put into operation and the term will run for eight years.

[62 FR 11105, Mar. 11, 1997]

#### PROCESSING OF APPLICATIONS

##### §25.150 Receipt of applications.

Applications received by the Commission are given a file number and (domestic only) a unique station identifier for administrative convenience. Neither the assignment of a file number and/or other identifier nor the listing of the application on public notice as received for filing indicates that the application has been found acceptable for filing or precludes the subsequent return or dismissal of the application if it is found to be defective or not in accordance with the Commission's rules.

##### §25.151 Public notice period.

(a) At regular intervals, the Commission will issue public notices listing:

(1) The receipt of applications for new station authorizations;

(2) The receipt of applications for license or registration of receive-only earth stations;

(3) The receipt of applications for major modifications to station authorizations;

(4) The receipt of major amendments to pending applications;

(5) The receipt of applications to assign or transfer control of space station facilities, transmitting earth station facilities, or international receive-only earth station facilities;

(6) Significant Commission actions regarding applications;

(7) Information which the Commission in its discretion believes to be of public significance; and

(8) Special environmental considerations as required by part 1 of this chapter.

(b) Special public notices may also be issued at other times under special circumstances involving non-routine matters where speed is of the essence and efficiency of Commission process will be served thereby.

(c) A public notice will not normally be issued for receipt of any of the following applications:

(1) For authorization of a minor technical change in the facilities of an authorized station;

(2) For temporary authorization pursuant to §25.119;

(3) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934, as amended [47 U.S.C. 308(a)];

(4) For consent to an involuntary assignment or transfer of control of a transmitting earth station authorization; or

(5) For consent to an assignment or transfer of control of a space station authorization or a transmitting earth station authorization, where the assignment or transfer does not involve a substantial change in ownership or control; or

(6) For change in location of an earth station operating in the 4/6 GHz and 10.95–11.7 GHz bands by no more than 1° in latitude and/or longitude and for change in location of an earth station operating in the 12/14 GHz bands by no more than 10° in latitude and/or longitude.

(d) No application that has appeared on public notice will be granted until the expiration of a period of thirty days following the issuance of the public notice listing the application, or any major amendment thereto. Any comments or petitions must be delivered to the Commission by that date in accordance with §25.154.

[56 FR 24016, May 28, 1991, as amended at 58 FR 68061, Dec. 23, 1993]

#### **§25.152 Dismissal and return of applications.**

(a) Any application may be dismissed without prejudice as a matter of right

if the applicant requests its dismissal prior to final Commission action.

(b) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice unless the application is mutually exclusive pursuant to §25.155, in which case it will be dismissed with prejudice.

#### **§25.153 Repetitious applications.**

(a) Where an application has been denied or dismissed with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by its successor or assignee, or on behalf of or for the benefit of any of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's action. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, will not be considered until the final disposition of the appeal.

#### **§25.154 Opposition to applications and other pleadings.**

(a) Petitions to deny, petitions for other forms of relief, and other objections or comments must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers, and radio service involved) with which it is concerned;

(2) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of the application or major amendment thereto (unless the Commission otherwise extends the filing deadline);

(3) Filed in accordance with the pleading limitations, periods and other applicable provisions of §§1.41 through 1.52 of this chapter;